

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

RORY L. PERRY II
Sidney L. Christie Federal Bldg.
845 Fifth Avenue, Room 101
Huntington, WV 25701



Control Number: 256631

Defendant: Marshall University
216 Old Main
One John Marshall Drive
Huntington, WV 25755 US

Agent: Layton Cottrill, General Counsel

County: Federal

Civil Action: 3:17-01362

Certified Number: 92148901125134100002701502

Service Date: 4/15/2020

I am enclosing:

1 subpoena duces tecum

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, **not to the Secretary of State's office.***

Sincerely,

Mac Warner

Mac Warner
Secretary of State

JACKSONKELLY PLLC

500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

E-mail Address: gcallas@jacksonkelly.com
Writer's Fax No.: (304) 340-1050
Direct Dial No.: (304) 340-1169

April 10, 2020

Via U.S. Mail

Marshall University
c/o Layton Cottrill, General Counsel
216 Old Main
One John Marshall Drive
Huntington, WV 25755

Re: Third-Party Subpoena Duces Tecum

Dear Mr. Cottrill:

Enclosed you will find a subpoena duces tecum that requests the production of documents in Marshall University's possession related to two civil cases, *City of Huntington v. AmerisourceBergen Drug Corp., et al.*, Civil Action No. 3:17-01362, and *Cabell County Commission v. AmerisourceBergen Drug Corp., et al.*, Civil Action No. 3:17-01665. These cases are currently before Judge David A. Faber in the Southern District of West Virginia and are expeditiously moving forward.

AmerisourceBergen, whom we represent, recognizes that medical providers and hospitals, like those affiliated with Marshall University, are under significant stress as a result of the spread of COVID-19. Please do not hesitate to contact me if developments at your facility pose barriers to fully responding to the subpoena within the designated period. Although we currently have upcoming discovery deadlines and an August 31, 2020 trial date, we understand the demands that Marshall University is currently working under and will try our best to accommodate your needs. AmerisourceBergen is serving a similar subpoena on Marshall University.

We understand that the same person may be responsible for handling both subpoenas for Marshall Health and Marshall University. If that is the case, we would appreciate it if you could let us know. Also, we understand that Mountain Health Network, an affiliate of Marshall Health and Marshall University, may possess discoverable information in this case. If you maintain that neither Marshall Health nor Marshall University controls Mountain Health Network documents, and that we must serve a separate subpoena on it, please advise as soon as possible.

Thank you for your attention to this matter.

April 10, 2020
Page 2

Sincerely,

/s/ Gretchen M. Callas

Gretchen M. Callas
Jackson Kelly PLLC

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia

City of Huntington; Cabell County Commission

Plaintiff

v.

AmerisourceBergen Drug Corporation, et al.

Defendant

Civil Action No. 3:17-01362; 3:17-01665

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Marshall University, c/o Layton Cottrill, General Counsel
216 Old Main, One John Marshall Drive, Huntington, WV 25755

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment A.

Place: Jackson Kelly PLLC
500 Lee Street East, Suite 1600
Charleston, WV 25301

Date and Time:

04/27/2020 9:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 4/10/2020

CLERK OF COURT

OR

/s/ Gretchen M. Callas

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) All Defendants
AmerisourceBergen Drug Corporation, Cardinal Health, Inc., and McKesson Corporation, who issues or requests this subpoena, are:

See Attached List of Counsel for Defendants

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 3:17-01362; 3:17-01665

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.: